

Craig B. Friedberg, Esq.
LAW OFFICES OF CRAIG B. FRIEDBERG, ESQ.
Nevada Bar No. 004606
4760 South Pecos Road, Suite 103
Las Vegas, Nevada 89121
(702) 435-7968 – telephone
(702) 825-8071 – facsimile
attcbf@cox.net

James J. Parr, Esq.
AGRUSS LAW FIRM, LLC
Illinois Bar No.: 6317921
4809 N. Ravenswood Avenue, Suite 409
Chicago, IL 60640
(312) 224-4695 – telephone
(312) 253-4451 – facsimile
james@agrusslawfirm.com
Admitted Pro Hac Vice

Attorneys for Plaintiff, ALICIA STAFFORD

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ALICIA STAFFORD,)	
)	
Plaintiff,)	Case No.: 2:22-cv-00130-APG-DJA
)	
v.)	
)	
ASSET RECEIVABLES MANAGEMENT)	
LLC; IMPERIAL CAPITAL GROUP LLC;)	
and CASCADE CAPITAL, LLC,)	
)	
Defendants.)	
)	

**PLAINTIFF’S RESPONSE TO THIS HONORABLE COURT’S
NOTICE REGARDING INTENTION TO DISMISS PURSUANT TO FRCP 4(m) AND
REQUEST FOR ADDITIONAL TIME TO SERVE DEFENDANTS, ASSET RECEIVABLES
MANAGEMENT LLC AND IMPERIAL CAPITAL GROUP LLC**

Plaintiff, ALICIA STAFFORD (“Plaintiff”), through her undersigned counsel, responds to this Honorable Court’s Notice Regarding Intention to Dismissal Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, (Doc. No. 10), and requests that the Court grant additional time for Plaintiff to serve

Defendants, Asset Receivables Management, LLC (“Asset”) and Imperial Capital Group, LLC (“Imperial”), as follows:

1. To date, Plaintiff has been unsuccessful serving Asset and Imperial with the Summons and Complaint.
2. Plaintiff has been diligent in attempting service of the Summons and Complaint on Asset and Imperial.
3. Plaintiff has attempted to serve Asset at the address that it has designated with the New York Department of State¹ but was unsuccessful because “[t]he whole building is vacant empty all locked up the outside is a torn up awnings but it’s all empty inside.” (Attached hereto as Exhibit A is a Proof of [Non-]Service prepared by the process server).
4. Plaintiff also attempted to serve Asset at a known alternate address but was unsuccessful because:

This is a bad address. Server entered the building and searched the entire directory. Targets name was not in the directory. Suite 1102 Is an attorneys office (Battista, Robert ESQ). Server went to suite and was told it was the wrong address. 1102 is Eastern Abstract of WNY INC (also a satellite office for Battista).

(Attached hereto as Exhibit B is a Proof of [Non-]Service prepared by the process server).

5. Plaintiff has attempted to serve Imperial by way of its registered agent, Jonathan DiMusto, at the address that it has designated with the North Carolina Secretary of State² but was unsuccessful because Mr. DiMusto apparently did not live there anymore. (Attached hereto as Exhibit C is a Proof of [Non-]Service prepared by the process server).

¹ Asset is a New York limited liability company and does not appear to be registered with the Nevada Secretary of State.

² Asset is a North Carolina limited liability company and does not appear to be registered with the Nevada Secretary of State.

1 6. Plaintiff also attempted to serve Imperial at a known alternative address for Mr. DiMusto, but
2 was also unsuccessful because Mr. DiMusto reportedly moved to Mexico.

3 (Attached hereto as Exhibit D is email correspondence with the process server).

4 7. Plaintiff and her counsel are determined to hold Asset and Imperial accountable for their
5 actions, but need additional time to further investigate, track down, and serve Asset and
6 Imperial and/or explore alternative means of service.

7 8. Plaintiff's counsel inadvertently failed to timely file a request for an extension of time to serve
8 Asset and Imperial before the ninety-(90)-day timeframe passed pursuant to Federal Rule of
9 Civil Procedure 4(m).

10 9. Plaintiff's undersigned counsel did not intend to disrupt the course of the proceedings and
11 apologizes to this Honorable Court for this error and assumes full responsibility.

12 10. Plaintiff and her counsel request that the Court grant Plaintiff and her counsel a retroactive
13 extension of time, including an additional sixty (60) days from the current date, to serve both
14 Asset and Imperial with the Summons and Complaint and file proofs of service accordingly.

15 11. Plaintiff and her undersigned counsel assert that they have shown good cause to be granted their
16 requested relief.

17 WHEREFORE, based on the foregoing, Plaintiff, ALICIA STAFFORD, respectfully requests
18 that this Honorable Court grant Plaintiff and her counsel, a retroactive extension of time, including
19 sixty (60) additional days from the current date, through July 26, 2022, to both serve Defendants,
20 ASSET RECEIVABLES MANAGEMENT LLC and IMPERIAL CAPITAL GROUP LLC, with the
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1 Summons and Complaint and file proofs of service accordingly.

2 DATED: May 27, 2022

Respectfully submitted,
AGRUSS LAW FIRM, LLC

3
4 By: /s/ James J. Parr

5 James J. Parr, Esq.
6 Illinois Bar No.: 6317921
7 4809 N. Ravenswood Avenue, Suite 409
8 Chicago, IL 60640
9 (312) 224-4695 – telephone
10 (312) 253-4451 – facsimile
11 james@agrusslawfirm.com
12 Attorney for Plaintiff
13 *Admitted Pro Hac Vice*

14 **ORDER**

15 For good cause appearing therein, the Court grants Plaintiff's
16 request for an additional 60 days within which to serve
17 defendants. Accordingly, Plaintiff shall have until **July 26,**
18 **2022** within which to serve defendants. IT IS SO ORDERED.

19 DATED this 31st day of May, 2022.

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21 
22 DANIEL J. ALBREGTS
23 UNITED STATES MAGISTRATE JUDGE
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EXHIBIT A

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Civil Action No. 2:22-CV-00130-APG-DJA

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* asset recievables management llc was received by me on *(date)* 01/31/2022.

- ☐ I personally served the summons on the individual at *(place)* _____ on *(date)* _____; or
- ☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last known address; or
- ☐ I served the summons on *(name of individual)* _____, who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____; or
- ☒ I returned the summons unexecuted because: The whole building is vacant empty all locked up the outside is a torn up awnings but it's all empty inside; or
- ☐ Other: _____; or

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ \$.

I declare under penalty of perjury that this information is true.

Date: 01/31/2022



Server's signature

Joseph Jeziorowski

Printed name and title

1260 Delaware Ave. Buffalo NY 14209

Server's address

Additional information regarding attempted service, etc.:

1) Unsuccessful Attempt: Jan 31, 2022, 1:15 pm EST at 4246 ridge rd 61, amherst, ny 14226

The whole building is vacant empty all locked up the outside is a torn up awnings but it's all empty inside

EXHIBIT B

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Civil Action No. 2:22-CV-00130-APG-DJA

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

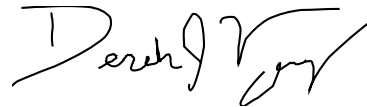
This summons for *(name of individual and title, if any)* asset recievables management llc was received by me on *(date)* 02/14/2022.

- ☐ I personally served the summons on the individual at *(place)* _____ on *(date)* _____; or
- ☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last known address; or
- ☐ I served the summons on *(name of individual)* _____, who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____; or
- ☒ I returned the summons unexecuted because: This is a bad address. Server entered the building and searched the entire directory. Targets name was not in the directory. Suite 1102 Is an attorneys office (Battista, Robert ESQ). Server went to suite and was told it was the wrong address. 1102 is Eastern Abstract of WNY INC (also a satellite office for Battista). ; or
- ☐ Other: _____; or

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ \$.

I declare under penalty of perjury that this information is true.

Date: 02/14/2022



Server's signature

DEREK VASQUEZ

Printed name and title

1260 Delaware Ave Buffalo NY 14209

Server's address

Additional information regarding attempted service, etc.:

1) Unsuccessful Attempt: Feb 14, 2022, 2:16 pm EST at 69 DELAWARE AVE room 1102, BUFFALO, NY 14202-3808
This is a bad address. Server entered the building and searched the entire directory. Targets name was not in the directory. Suite 1102 Is an attorneys office (Battista, Robert ESQ). Server went to suite and was told it was the wrong address. 1102 is Eastern Abstract of WNY INC (also a satellite office for Battista).

EXHIBIT C

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Affidavit of Process Server

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

(NAME OF COURT)

Alicia Stafford

vs

Asset Receivables Management LLC, et al

2:22-cv-00130-APG-DJA

PLAINTIFF/PETITIONER

DEFENDANT/RESPONDENT

CASE NUMBER

I, Michael VanKeuren, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I ☐ served ☒ was unable to serve : Imperial Capital c/o Jonathan DiMusto

NAME OF PERSON TO BE SERVED

with (list documents) Summons and Complaint

by leaving with _____ At

<input checked="" type="checkbox"/> Residence	NAME 10912 McCamie Hill Place	RELATIONSHIP / POSITION Concord, NC 28025
	ADDRESS	CITY / STATE
<input type="checkbox"/> Business	ADDRESS	CITY / STATE

On February 4, 2022 AT 3:10 PM

☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on _____ DATE

from _____
CITY STATE ZIP

Manner of Service:

- ☐ **Personal:** By personally delivering copies to the person being served.
- ☐ **Substituted at Residence:** By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of _____ and explaining the general nature of the papers.
- ☐ **Substituted at Business:** By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
- ☐ **Corporate:** By personally delivering copies to the person named above.
- ☐ **Posting:** By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- ☐ **Unknown at Address** ☐ **Moved, Left no Forwarding** ☐ **Service Cancelled by Litigant** ☐ **Unable to Serve in Timely Fashion**
- ☐ **Address Does Not Exist** ☒ **Other** No answer at the door at the following 3 attempts, at least one vehicle in the driveway at each attempt.

Service Attempts: Service was attempted on: (1) 1-29-22 at 9:50 AM (2) 2-1-22 at 6:00 PM
DATE TIME DATE TIME

(3) 2-4-22 at 3:10 PM (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

Description: Age _____ Sex _____ Race _____ Height _____ Weight _____ Hair _____ Beard _____ Glasses _____

Michael VanKeuren
SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 7 day of February, 2022, by Michael VanKeuren
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Terri VanKeuren
Notary Public
Cabarrus County
North Carolina

My Commission Expires March 21, 2022

Terri VanKeuren
SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of N.C.



EXHIBIT D

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From: [MAJESTIC LEGAL](#)
To: [Jackie Laino](#)
Subject: Re: Service on Imperial c/o DiMusto (Stafford)
Date: Thursday, February 24, 2022 6:57:16 PM

Moved to Mexico per current resident

Majestic Process Service

From: MAJESTIC LEGAL <majesticlegal@hotmail.com>
Sent: Friday, February 11, 2022 11:52:19 AM
To: Jackie Laino <jackie@agrusslawfirm.com>
Subject: Re: Service on Imperial c/o DiMusto (Stafford)

OK got it

From: Jackie Laino <jackie@agrusslawfirm.com>
Sent: Friday, February 11, 2022 11:51:15 AM
To: majesticlegal@hotmail.com
Subject: Service on Imperial c/o DiMusto (Stafford)

Good morning,

Thanks for taking my call today! Please serve DiMusto at the address below with the attached documents. Please let me know if you need anything else. If you could confirm receipt, that would be great.

230 CHERRY ST APT 2714
CHINA GROVE, NC 28023-2354

The address is different than on the summons because we are attempting a 2nd address. Thanks!

Jackie Laino |Senior Paralegal | my bio<<https://www.agrusslawfirm.com/our-team/jackie-laino>>
4809 N Ravenswood Ave, Suite 419, Chicago, IL 60640
Tel: 312-300-5993 | Fax: 312-253-4451

[cid:image001.png@01D81F35.2AFE3460]<<http://www.agrusslawfirm.com/>>